

Sub: In the matter of the approval for continuation of the bidding process initiated by Shahpura Thermal Power Co. Ltd., as per the guidelines notified by Ministry of Power, Govt of India for procurement of Power on long term basis beyond 730 days.

Petition No. 09/2009

ORDER

(Date of Hearing 27th October, 2009)

M/s Shahpura Thermal Power Co. Ltd, (STPCL), Jabalpur

Petitioner

Shri Sanjeev Khare, Deputy General Manager, M/s Shahpura Thermal Power Company Ltd., Jabalpur, (hereinafter referred to as petitioner or STPCL) appeared on behalf of petitioner

1. The petitioner M/s Shahpura Thermal Power Company Ltd. (STPCL) is a company incorporated by Madhya Pradesh Power Trading Company Limited as a Special Purpose Vehicle (SPV) Company. The main objective of the Company is to develop a Coal Based Thermal Power Project (in the range of 1250-1500 MW) near Shahpura, Jabalpur in the State of Madhya Pradesh, under case-2 of the Competitive Bidding Guidelines issued by the Ministry of Power, Government of India.
2. The petitioner submitted that the Competitive Bidding Process for purchase of power on a long term basis was initiated on 9th March, 2007 following the two stage of bidding process i.e RFQ stage and RFP stage. RFQ bids were invited on 9th March, 2007 and nine bidders were declared qualified by STPCL. Draft RFP documents were issued to the qualified bidders.
3. The petitioner further submitted that he could not proceed further with the bidding process beyond issuance of draft RFP, for non-availability of coal linkage. The petitioner further informed that he has been constantly following up the matter with the Coal Ministry through the Ministry of Power, Government of India. The petitioner placed a copy of the letter sent from Chief Minister, Madhya Pradesh to Minister of Power, Government of India. In response to this letter, Minister of Power vide letter dated 16th July, 09 informed that the application for this project would be taken up for consideration on merit in the meeting of SLC (LT) to be held in future. The petitioner informed that this meeting of SLC could not yet take place and sought time up to January, 2010 so that the petitioner may come up with a definite and reasonable time table for completion of the bidding process.

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4. During the hearing in the matter held on 15th April, 09 the Commission had directed the petitioner to examine whether continuing with the current bidding would be fair to all the Stake holders or whether it would be better to re-start the entire process again by floating fresh RFQ, after the issue of coal linkage is concluded. The petitioner was also asked to commit a definite time-frame to the Commission for completing the process, in case the petitioner finds it appropriate to continue with the current bidding process.
5. In response to the above, the petitioner made written submission dated 26/10/09 wherein the petitioner stated that it would be in the interest of the project to continue with the current bidding process, mainly on the following grounds:
 - a. In the ongoing competitive bidding process, one stage of the process i.e up to RFQ stage has already been completed. Starting a fresh process would mean that the activities that have been already completed would have to be repeated. It will only result in increase in the time in awarding the project.
 - b. Demand of power in the state is more than the available supply and the gap is further widening. Continuing the existing bidding process would help in bridging the demand-supply gap.
 - c. There had been good response to the RFQ process and as many as nine major players has been short listed. In case a new process is started, there is no surety of getting such a good response from major players, looking to the global economic recession. Moreover, the cancellation of the bidding process will send a wrong signal to the prospective bidders, who may not be interested in future bidding process and may take the initiatives of Madhya Pradesh Power Sector very lightly which may result in lukewarm response of the investors during RFQ stage itself. This would eventually delay completion of the bidding process.
 - d. Besides all the efforts made by STPCL going in vain if fresh process is started, the most important advantage in continuing with the ongoing bidding process is participation of most of the experienced major players of power sector, some of which may not participate in case of a fresh bidding process due to global recession and cancellation of the earlier bidding process.

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6. The Commission has noted that the bidding process was started on 9th March, 2007 and more than two and a half years have already elapsed. Even now the petitioner is unable to come up with any definite time-frame as to when the coal linkage would be available and when the process of award would be completed.
7. The Commission has noted that the major argument of the petitioner in support of continuation of the current bidding process is that the nine major players in the power generation sector have been short-listed and in case a fresh process is initiated, there was no surety of getting such a good response again. The Commission does not find much merit in this argument. Merely short listing of bidders at RFQ stage does not give any assurance about their participation at RFP stage. There are instances in other States that despite a very good response at RFQ stage, there was only a single bid at the RFP stage and even that single bid was eventually not found acceptable by the concerned State Electricity Regulatory Commission. Thus mere short listing of many bidders at RFQ stage cannot be a sufficient reason for continuing the process. The Commission is also of the view that the power sector is a very dynamic sector and many bids are being invited by many States for procurement of power on long term basis. It is also possible that some of the prospective bidders who could not participate in the earlier process for want of meeting the qualifying requirement might have acquired additional strength to become qualified in the intervening long period of time. It would, therefore, not be fair to such prospective bidders to deny participation in the bidding process especially when the process has not proceeded beyond RFQ stage.
8. After considering all pros and cons, the Commission is of the view that it will be better to restart the bidding process afresh after properly tying up various inputs required. The Commission does not agree with the petitioner's view that the efforts made so far would go in vain in case the process is restarted as the same bidding documents can be reused, after incorporating necessary changes.
9. In view of the aforesaid, the Commission does not agree to give extension in time beyond time limit prescribed in the bidding guidelines issued by the Ministry of Power. The petition is dismissed.

(C.S.Sharma)
Member (Economics)

(K.K.Garg)
Member (Engineering)

(Dr. J.L.Bose)
Chairman